

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7539 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5: No

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MULIBEN WD/O REVABHAI P PARMAR

Versus

REGIONAL PROVIDENT FUND                      COMMISSIONER

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Appearance:

MR KM SHETH for Petitioner

MR PM RAVAL for Respondent No. 1, 2

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CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 21/03/98

ORAL JUDGEMENT

1. The petitioner is the widow of deceased member of the Family Pension Fund serving as a Mill Kamdar in the second respondent Mill. He was member of the Provident Fund as well as Family Pension Fund. The workman suffered from chest disease and he was admitted in the ESI dispensary and he was advised to take rest. He was diagnosed to have TB and he had remained on leave for

considerably long time, almost for one year and he died on 26.11.1993, leaving behind him, a widow and two minor children.

2 A claim was made for the benefit under Family Pension scheme and it has been rejected by the letter at Annexure A (page 10) stating that "the member is not admissible for pension." It appears that because the member was sick, he was absent for 1 year 25 days and the family pension is denied on the ground that for a period of more than one year, the contribution to family pension was not made by the member. This concept of one year was there in para 6 of the Employees Family Pension Scheme, 1971. However, that has been removed by amendment of 1st April 1988.

3. In the facts and circumstances of the case as well as the spirit of the amendment, the intention of this welfare scheme is that a person who has contributed to the family pension scheme throughout his life should not lose the benefit because for some period, contribution is not made. The circumstances for not making contribution are also relevant and to be seen. In the present case, the circumstances were pathetic. Such cases are not likely to be found because since 1988, in any case, the scheme itself has provided that the family of the deceased member would get family pension.

4. In the result, the petition succeeds and the respondents are directed to pay to the petitioner-widow within six months the benefits under the family pension scheme. The respondents to compute such benefits and pay to the petitioner from 1.1.1984, with appropriate interest and to continue to pay every month regular family pension on that basis.

Rule made absolute with no order as to costs.

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mhs/-